

1 MARK L. MOSLEY State Bar #136449
2 BRIAN GEARINGER State Bar #146125
3 STEPHEN F. HENRY State Bar #142336
4 MOSLEY & GEARINGER LLP
5 825 Van Ness Avenue, Fourth Floor
6 San Francisco, California 94109-7837
7 Telephone: (415) 440-3102
8 Facsimile: (415) 440-3103

9
10 Attorneys for Plaintiff
11 ELIZABETH CLARK

12 JOHN A. RUSSO, City Attorney – State Bar #129729
13 RANDOLPH W. HALL, Chief Assistant City Attorney – State Bar #080142
14 RACHEL WAGNER, Supervising Trial Attorney – State Bar #127246
15 INÉS VARGAS FRAENKEL, Deputy City Attorney – State Bar #108113
16 One Frank H. Ogawa Plaza, 6th Floor
17 Oakland, California 94612
18 Telephone: (510) 238-6512
19 Facsimile: (510) 238-6500
20 Email: ivfraenkel@oaklandcityattorney.org
21 25255:399461

22 Attorneys for Defendants
23 CITY OF OAKLAND, WAYNE G. TUCKER,
24 and MITCH POWELL

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

18 ELIZABETH CLARK, an individual,

Case No. C06-06872 CRB

19 Plaintiff,

STIPULATION AND [PROPOSED]
ORDER TO WITHDRAW MOTION TO
DISMISS AND TO FILE FIRST AMENDED
COMPLAINT

20 v.

21 THE CITY OF OAKLAND, a California public
22 entity, CHIEF WAYNE G. TUCKER, in his
23 individual and official capacities, OFFICER
24 MITCH POWELL, in his individual and
25 official capacities and DOES ONE through
FIFTY, inclusive,

Defendants.

1 IT IS HEREBY STIPULATED by and between the parties through their attorneys of
2 record pending Order of this Court, that (1) defendants hereby withdraw their FRCP
3 12(b)(6) Motion to Dismiss currently scheduled for hearing on March 23, 2007, and
4 (2) plaintiff will file a First Amended Complaint by March 21, 2007.

5 GOOD CAUSE EXISTS for this Order as plaintiff's attorney intends to file a First
6 Amended Complaint in response to defendants' motion. It is believed that if defendants'
7 motion were to be heard, the Court would allow plaintiff the opportunity to file an amended
8 pleading. Therefore, such order will serve the interests of justice, free up the Court's
9 otherwise busy calendar and avoid unnecessary judicial involvement.

10 IT IS SO STIPULATED.

11 Dated: March 9, 2007

MOSLEY & GEARINGER
STEPHEN F. HENRY, ESQ.

14 By: /s/ Stephen F. Henry

15 STEPHEN F. HENRY
Attorneys for Plaintiff ELIZABETH CLARK

17 Dated: March 9, 2007

JOHN A. RUSSO, City Attorney
RACHEL WAGNER, Supervising Deputy City Attorney
INES FRAENKEL, Deputy City Attorney

21 By: /s/ Inés Vargas Fraenkel

22 INÉS VARGAS FRAENKEL
Attorneys for Defendants
23 CITY OF OAKLAND, WAYNE G. TUCKER and
OFFICER MITCH POWELL

1 IT IS SO ORDERED.
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3 Dated: March 15, 2007
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7 CHARLES R. BREYER
8 U.S. Northern District Court
9 IT IS SO ORDERED
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11 Judge Charles R. Breyer
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